

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1970

Introduced by Assembly Member Fong
(Coauthors: Assembly Members Nava, Portantino, Saldana, and Yamada)

February 17, 2010

An act to add Section 12301.65 to the Welfare and Institutions Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 1970, as amended, Fong. In-home supportive services providers: emergency shelter services.

~~Existing law, the California Emergency Services Act, establishes emergency services functions of the state, as specified. Existing federal law also provides for the declaration of a federal state of emergency, upon the request made by the Governor of an affected state, for the purpose of receiving federal emergency assistance.~~

Existing law provides for the In-Home Supportive Services (IHSS) program, under which, either through employment by the recipient, by or through contract by the county, by the creation of a public authority, or pursuant to a contract with a nonprofit consortium, qualified aged, blind, and disabled persons receive services enabling them to remain in their own homes.

~~Existing law permits services to be provided under the IHSS program either through the employment of individual providers, a contract between the county and an entity for the provision of services, the creation by the county of a public authority, or a contract between the county and a nonprofit consortium. The duties of a public authority or~~

nonprofit consortium *that provides services under the IHSS Program* include the provision of assistance to recipients in finding in-home supportive services personnel through the establishment of a provider registry.

~~This bill would require the State Department of Social Services authorize a county department of social services to make IHSS provider registries available during a state or federally declared state of emergency, upon the request of an emergency shelter operator, for the assistance of seniors and persons with disabilities at the shelter site. The bill would specify county and public authority responsibilities in administering the bill emergency. The bill would require a person designated by the county as representative of the county department of social services to, upon the request of an emergency shelter operator, assess the operator's emergency shelter, as defined, to determine the assistance needs of seniors and persons with disabilities at the shelter site. The bill would authorize the county department of social services to direct the public authority, or other entity responsible for providing in-home supportive services in the county, to contact in-home supportive services providers who are willing and available to provide assistance to seniors and persons with disabilities at the emergency shelter.~~

By imposing new duties on local officials, this bill would create a state-mandated local program.

The bill would provide that an in-home supportive services provider who provides assistance to seniors and persons with disabilities at an emergency shelter shall not be liable for harm caused by an act or omission of the provider if the provider was acting within the scope of his or her responsibilities as an in-home supportive services provider at the time of the act or omission and the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the provider.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 12301.65 is added to the Welfare and Institutions Code, to read:

12301.65. (a) ~~The State Department of Social Services shall~~
For purposes of this section, “emergency shelter” means a safe facility contracted by a county to provide shelter and resources to evacuees of a federally declared state of emergency.

(b) *A county department of social services may make in-home supportive services provider registries available to emergency shelter operators during a state of emergency declared pursuant to state or federal law, as provided in this section.*

~~(b)~~
(c) ~~Upon the request of an emergency shelter operator, an in-home supportive services social worker~~ *a person designated by the county as a county department of social services-representative shall assess the shelter to determine the assistance needs of seniors and persons with disabilities at the shelter site. The designated representative may work with a third party, including, but not limited to, the public authority, to assess the needs of seniors and persons with disabilities at the shelter site pursuant to this subdivision.*

~~(c)~~
(d) ~~Following the assessment required under subdivision (b), the department shall~~ *a county department of social services may direct the public authority, or other entity responsible for providing in-home supportive services in the county, to identify individuals on its provider registry’s list of short-term and emergency workers, who are willing and available to provide services pursuant to this section. county, to contact in-home supportive services providers who are willing and available to provide assistance to seniors and persons with disabilities at the emergency shelter. The public authority, or other entity responsible for providing in-home supportive services in the county, may utilize a provider registry list of short-term and emergency workers, if available, to identify in-home supportive services providers for purposes of this subdivision.*

~~(d)~~
(e) ~~The timesheet for an in-home supportive services provider approved by the county to provide services pursuant to this section~~

1 ~~shall be processed by the authorizing county, which shall retain a~~
2 ~~copy of the timesheet for submission to the federal government~~
3 ~~approved by the county to provide assistance to seniors and~~
4 ~~persons with disabilities at an emergency shelter shall be included~~
5 ~~in the county's regular reimbursement application for submission~~
6 ~~to the appropriate state entity for reimbursement from any federal~~
7 funds as may be provided to the state for emergency response. The
8 county shall forward the original timesheet to the state case
9 management information and payroll system for in-home
10 supportive services.

11 *(f) An in-home supportive services provider who provides*
12 *assistance to seniors and persons with disabilities at an emergency*
13 *shelter shall not be liable for harm caused by an act or omission*
14 *of the provider if the provider was acting within the scope of his*
15 *or her responsibilities as an in-home supportive services provider*
16 *at the time of the act or omission and the harm was not caused by*
17 *willful or criminal misconduct, gross negligence, reckless*
18 *misconduct, or a conscious, flagrant indifference to the rights or*
19 *safety of the individual harmed by the provider.*

20 SEC. 2. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.

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27 CORRECTIONS: _____

28 Text—Page 3.
29 _____